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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,467	03/17/2004	Burch E. Zehner	CRA1002-171D	4020

8698 7590 12/23/2004

STANDLEY LAW GROUP LLP  
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DUBLIN, OH 43017

EXAMINER

SZEKELY, PETER A

ART UNIT	PAPER NUMBER
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1714

DATE MAILED: 12/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/802,467

Applicant(s)

ZEHNER, BURCH E. 

Examiner

Peter Szekely

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 June 2004.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6,9-11,13-18 and 20-24 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-6,9-11,13-18 and 20-24 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 22 May 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 6/17/04, 7/11/04.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Priority***

1. This application filed under former 37 CFR 1.60 lacks the necessary reference to the prior application. The current status of all nonprovisional parent applications referenced should be included.

### ***Drawings***

2. The drawing informalities noted in the parent application, 09/576,706, have not been corrected and accordingly, the objections for them are maintained.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-6, 9-11, 13 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Golder et al. 4,102,106, Hunter et al. 6,295,777, Hendrickson et al. 6,122,877 or Dubelsten et al. 6,605,245, in view of Schinzel et al. 4,168, 251, Cope 5,847,016, Cope 5,951,927 or Cope 6,066,680.

5. Golder et al. disclose a siding panel in the Abstract, PVC in column 2, line 11 and wood flour and inorganic fillers in column 2, lines 28-29. Hunter et al. teach siding panels in column 3, line 36, polyvinyl chloride, processing aids, lubricants and stabilizers in column 5, lines 4-20, inorganic fillers in column 5, lines 60-62 and wood flour in column 6, lines 8-25. Hendrickson et al. recite siding assembly in the Abstract,

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PVC and cellulosic fiber in column 3, lines 33-50, stabilizers, lubricants and fillers in column 4, lines 43-54. Dubelsten et al. divulge siding in column 6, line 67, sawdust in column 7, line 65, PVC in column 8, line 66, carbon black, fiberglass and wax in column 8, lines 13-30. The primary references do not specify the amounts of the different ingredients, however the secondary references make up for this omission. Schinzel et al. reveal conventional amounts of calcium carbonate in column 3, lines 25-27, PVC, wood meal, dibasic lead sulfate and lead stearate stabilizers, cetyl palmitate, stearic acid and calcium stearate lubricants and methyl methacrylate processing aid with their concentrations in Example I. Cope ('016) display PVC, tin stabilizer, acrylic processing aid, calcium stearate, wax and ester lubricants, wood flour, calcium carbonate and titanium dioxide with their respective concentrations from column 6, line 7, to column 7, line 13. The contents of the other two Cope patents are similar. Although none of the secondary references names siding panels as one of the applications, they all refer to extruded and molded articles and since applicant's siding panel has no specific structure claimed and accordingly it is just a dimensionless molded article. Thus it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to use the concentrations shown by the secondary references, in the siding panels claimed by the primary references, since they have identical compositions and are manufactured by the same process. Furthermore, since both Hunter et al. and Hendrickson et al. list blowing agents among their ingredients and the Cope patents relate to foamed profiles, the examiner holds that laminating a foam backing to the siding panel, in the absence of unexpected results, is patently obvious.

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6. Claims 14-18, 20, 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hunter et al. 6,295,777, Hendrickson et al. 6,122,877, Godavarti et al. 6,265,037 or Dubelsten et al. 6,605,245, in view of Laver 5,516,472, further in view of Bistak et al. 4,746,688 or Beshay 4,717,742.

7. Godavarti et al. relate polypropylene polymer and wood fiber in the Abstract, siding in column 1, line 17, proportions in column 4, lines 25-35, sawdust in column 8, lines 33-37 and inorganic fillers and lubricants in column 12, lines 38-49. The other three primary references, besides the ingredients already discussed in paragraph 5, also describe polypropylene, i.e. Hunter et al. in column 5, line 8, Hendrickson et al. in column 12, line 52, Dubelsten et al. in column 8, line 65. The primary references do not specify the concentrations of the different ingredients, however Laver describes polypropylene in column 6, line 5, ratio of cellulosic fiber to polymer in column 6, lines 61-64, blowing agents in column 7, line 25, lubricant concentrations in the formulations from column 7, line 50, to column 8, line 7. Laver does not discuss the use of an inorganic filler, but Bistak et al. relate the use of propylene homopolymer, wood flour, talc and wax in the Examples, while Beshay claims a blend of wood pulp and inorganic fillers in claims 2, 3, and 5-7. For polypropylene see Table III and for cellulosic filler concentrations see column 2, lines 1-7. Therefore, it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to blend organic and inorganic fillers together in the formulations of Laver, to increase the hardness of the molding and while Laver does not explicitly describe siding panels, he shows numerous applications which are construction related in column 4, lines 46-52, to make the

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forming of siding panels obvious. The presence of blowing agents in the compound of Laver also makes the foam baking obvious as it was shown in paragraph #5. While some of the concentrations claimed by applicant might be outside the concentration ranges disclosed by the cited references, there are no unexpected results shown due to the construction or the composition of the claimed siding panels, which would make them different of any other siding panel. Applicant is requested to point out what is unique and novel about the claimed siding panel with or without the foam backing.

### ***Claim Objections***

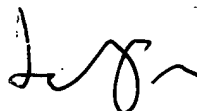
8. Claim 24 is objected to because of the following: The claim needs at least 107% by weight of ingredients. Appropriate correction is required. 9.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter Szekely whose telephone number is (571) 272-1124. The examiner can normally be reached on 7:00 a.m.-5:30 p.m. Tuesday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (571) 272-1119. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Peter Szekely  
Primary Examiner  
Art Unit 1714

P.S.  
12/20/04